Draft Order laid before Parliament under section 304(5) of the Health and Social Care Act 2012, for approval by resolution of each House of Parliament.

D R A F T S T A T U T O R Y I N S T R U M E N T S

2013 No.

NATIONAL HEALTH SERVICE, ENGLAND

The Health and Social Care Act 2012 (Consequential Amendments) (No. 2) Order 2013

Made - - - -	**** 2013*
Coming into force - -	*1st November 2013*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 303 and 304(9) and (10) of the Health and Social Care Act 2012(**a**).

The Secretary of State has consulted Scottish Ministers in accordance with section 303(4) of that Act.

A draft of this Order has been laid before and approved by resolution of each House of Parliament in accordance with section 304(5) of that Act.

Citation, commencement and extent

1.—(1) This Order may be cited as the Health and Social Care Act 2012 (Consequential Amendments) (No. 2) Order 2013.

(2) This Order comes into force on 1st November 2013.

(3) Any amendment made by this Order has the same extent as the provision amended.

Amendment of the Disabled Persons (Services, Consultation and Representation) Act 1986

2. In section 7 of the Disabled Persons (Services, Consultation and Representation) Act 1986(**b**) (persons discharged from hospital)—

(a) in subsection (3), for the words "under the 2006 Act or 1978 Act which the Secretary of State is under a duty to provide", substitute "mentioned in subsection (3A)", and

(**a**) 2012 c. 7.
(**b**) 1986 c. 33. The reference to the 2006 Act in section 7(3) was substituted by the National Health Service (Consequential Provisions) Act 2006 (c. 43), section 2, Schedule 1, paragraphs 87 and 89(a).

(b) after subsection (3), insert—

"(3A) The services referred to in subsection (3) are—

(a) in relation to England, services whose provision must be arranged by a clinical commissioning group(**a**) under section 3 of the 2006 Act, or by the National Health Service Commissioning Board(**b**) by virtue of section 3B of that Act;

(b) in relation to Wales, services which must be provided by the Welsh Ministers under the National Health Service (Wales) Act 2006(**c**); or

(c) in relation to Scotland, services which must be provided by the Scottish Ministers under the 1978 Act(**d**).".

Amendment of the Community Care (Delayed Discharges etc.) Act 2003

3. In section 1 of the Community Care (Delayed Discharges etc.) Act 2003(**e**) (meaning of "NHS body" and "qualifying hospital patient") in subsection (1), in the definition of "NHS body", after "a Local Health Board (in Wales);" insert—

"(c) the National Health Service Commissioning Board;

(d) a clinical commissioning group;".

Amendment of the National Health Service Act 2006

4. In the heading to section 256 of the National Health Service Act 2006(**f**) (power of Primary Care Trusts to make payments towards expenditure on community services), for "Primary Care Trusts", substitute "the Board or a clinical commissioning group".

Name
Minister of State
Department of Health

Date

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends three Acts of Parliament in consequence of the Health and Social Care Act 2012 (c. 7) ("the Act"). The majority of such amendments are made in the Act itself.

The amendment to section 7 of the Disabled Persons (Services, Consultation and Representation) Act 1986 (c. 33) is in consequence of the fact that the Act confers the function of provision and commissioning of health services for England on a variety of bodies, rather than this being the function of the Secretary of State. It also ensures that that section refers correctly to the way in which services are provided in Wales.

The amendment to the Community Care (Delayed Discharges etc.) Act 2003 (c. 5) adds the National Health Service Commissioning Board and clinical commissioning groups to the definition of "NHS body" for the purposes of that Act. This means that those bodies will be subject to the duties in the 2003 Act in relation to the safe and timely discharge of patients from

(**a**) A clinical commissioning group is a body established under section 14D of National Health Service Act 2006 (c. 41), as inserted by section 25(1) of the Health and Social Care Act 2012.
(**b**) The National Health Service Commissioning Board is established by section 1H of the National Health Service Act 2006, as inserted by section 9(1) of the Health and Social Care Act 2012.
(**c**) 2006 c. 42.
(**d**) 1978 c. 29.
(**e**) 2003 c. 5. The definition of "NHS body" in section 1(1) was amended by the Health and Social Care Act 2012, section 55(2) and Schedule 5, paragraphs 108 and 109.
(**f**) 2006 c. 41.

hospital. It will also mean that patients who are "qualifying hospital patients" for the purposes of the 2003 Act will include patients whose care in hospital (including independent hospitals) has been arranged by the National Health Service Commissioning Board or a clinical commissioning group.

The amendment to the National Health Service Act 2006 (c. 41) removes a reference to Primary Care Trusts from the heading to section 256 of that Act, which reflects the fact that Primary Care Trusts were abolished by section 34 of the Act.

A full impact assessment has not been produced for this instrument as the Order itself has no impact on the private sector or civil society organisations. A full Impact Assessment has been produced in relation to the provisions of the Act and a copy is available at www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsLegislation/DH_123583.

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